

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:)	
)	
U.S. Patent No.: 5,830,887)	
)	Group Art Unit: Not yet assigned
Inventor: Graham Edmund KELLY)	
)	Examiner: Not yet assigned
Issued: November 3, 1998)	
)	
Serial No.: Not yet assigned)	
)	
Filed: June 22, 2000)	
)	
For: HEALTH SUPPLEMENTS CONTAINING)	
PHYTO-OESTROGENS, ANALOGUES)	
OR METABOLITES THEREOF)	

BOX REISSUE

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

REISSUE DECLARATION UNDER 37 C.F.R. §§ 1.172 and 1.175

I, Graham Edmund Kelly, hereby declare that:

1. My residence, post office address and citizenship are as stated below under my name.

2. I believe I am the original and the first inventor of the subject matter that is claimed in U.S. Patent No. 5,830,887, entitled "Health Supplements Containing Phyto-oestrogens, Analogues or Metabolites Thereof." The '887 patent was granted on November 3, 1998, and it is the subject of this reissue application.

3. I claim priority under 35 U.S.C. § 119 to Australian application PL2511 filed on May 19, 1992.

LAW OFFICES

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& DUNNER, L.L.P.
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4. I have reviewed and understand the contents of the above-identified reissue application, including the originally issued claims, as well as the claims in the Preliminary Amendment filed herewith.

5. I acknowledge the duty to disclose information that is material to the examination of this reissue application in accordance with 37 C.F.R. § 1.56.

6. I believe that U.S. Patent No. 5,830,887 is partially inoperative by reason of my having claimed less than I had a right to claim.

7. An error which is the statutory basis for reissue is that the patent fails to contain claims of appropriate scope. Claims 11-13 are currently directed to:

[A] pharmaceutical preparation, in solid dosage unit form, the biologically active component of said preparation **consisting essentially of** any two or more concentrated, phytoestrogen-derived isoflavones selected from the group consisting of Genistein, Daidzein, Biochanin A, Formononetin or the natural glycosides of any said phytoestrogens and said preparation including a pharmaceutically acceptable carrier.

At the time I filed the patent application, I did not appreciate that the invention could be more broadly expressed as:

[A] pharmaceutical preparation, in solid dosage unit form, the biologically active component of said preparation **comprising** any two or more concentrated, phytoestrogen-derived isoflavones selected from the group consisting of Genistein, Daidzein, Biochanin A, Formononetin or the natural glycosides of any said phytoestrogens and said preparation including a pharmaceutically acceptable carrier.

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Nevertheless, I consider such a broad expression to be part of my invention, and I seek broadened claims in the present reissue application.

8. All errors being corrected in the reissue application up to the time of filing the present Declaration arose without any deceptive intention on my part.

9. I hereby appoint the following attorneys to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER, L.L.P., Douglas B. Henderson, Reg. No. 20,291; Ford F. Farabow, Jr., Reg. No. 20,630; Arthur S. Garrett, Reg. No. 20,338; Donald R. Dunner, Reg. No. 19,073; Brian G. Brunsvold, Reg. No. 22,593; Tipton D. Jennings, IV, Reg. No. 20,645; Jerry D. Voight, Reg. No. 23,020; Laurence R. Hefter, Reg. No. 20,827; Kenneth E. Payne, Reg. No. 23,098; Herbert H. Mintz, Reg. No. 26,691; C. Larry O'Rourke, Reg. No. 26,014; Albert J. Santorelli, Reg. No. 22,610; Michael C. Elmer, Reg. No. 25,857; Richard H. Smith, Reg. No. 20,609; Stephen L. Peterson, Reg. No. 26,325; John M. Romary, Reg. No. 26,331; Bruce C. Zotter, Reg. No. 27,680; Dennis P. O'Reilley, Reg. No. 27,932; Allen M. Sokal, Reg. No. 26,695; Robert D. Bajefsky, Reg. No. 25,387; Richard L. Stroup, Reg. No. 28,478; David W. Hill, Reg. No. 28,220; Thomas L. Irving, Reg. No. 28,619; Charles E. Lipsey, Reg. No. 28,165; Thomas W. Winland, Reg. No. 27,605; Basil J. Lewris, Reg. No. 28,818; Martin I. Fuchs, Reg. No. 28,508; E. Robert Yoches, Reg. No. 30,120; Barry W. Graham, Reg. No. 29,924; Susan Haberman Griffen, Reg. No. 30,907; Richard B. Racine, Reg. No. 30,415; Thomas H. Jenkins, Reg. No. 30,857; Robert E. Converse, Jr., Reg. No. 27,432; Clair X. Mullen, Jr., Reg. No. 20,348; Christopher P. Foley, Reg. No. 31,354; John C. Paul, Reg. No. 30,413; David M. Kelly, Reg. No. 30,953; Kenneth J. Meyers, Reg. No. 25,146; Carol P. Einaudi, Reg. No. 32,220; Walter Y. Boyd, Jr., Reg. No. 31,738; Steven M. Anzalone, Reg. No. 32,095; Jean B. Fordis, Reg. No. 32,984; Roger D. Taylor, Reg. No. 28,992; Barbara C. McCurdy, Reg. No. 32,120; James K. Hammond, Reg. No. 31,964; Richard V. Burgujian, Reg. No. 31,744; J. Michael Jakes, Reg. No. 32,824; Dirk D. Thomas, Reg. No. 32,600; Thomas W. Banks, Reg. No. 32,719; Christopher P. Isaac, Reg. No. 32,616; Bryan C. Diner, Reg. No. 32,409; M. Paul Barker, Reg. No. 32,013; Andrew Chanhon Sonu, Reg. No. 33,457; David S. Forman, Reg. No. 33,694; Vincent P. Kovalick, Reg. No. 32,867; James W. Edmondson, Reg. No. 33,871; Michael R. McGurk, Reg. No. 32,045; Joann M. Neth, Reg. No. 36,363; Gerson S. Panitch, Reg. No. 33,751; Cheri M. Taylor, Reg. No. 33,216; Charles E. Van Horn, Reg. No. 40,266; Linda A. Wadler, Reg. No. 33,218; Jeffrey A. Berkowitz, Reg. No. 36,743; Michael R. Kelly, Reg. No. 33,921; and James B. Monroe, Reg. No. 33,971.

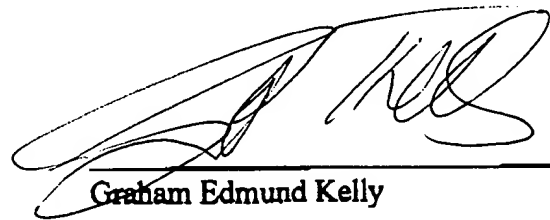
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Please address all correspondence to FINNEGAN, HENDERSON, FARABOW,
GARRETT and DUNNER, L.L.P., 1300 I Street, NW, Washington, DC 20005-3315.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 14th APRIL 2000



Graham Edmund Kelly

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NORTHBRIDGE

Residence

NSW 2063

AUSTRALIA

Post Office Address

AUSTRALIAN

Citizenship

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Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

**CONSENT OF ASSIGNEE OFFER TO SURRENDER
ORIGINAL PATENT, AND PROOF OF OWNERSHIP UNDER 37 C.F.R. § 3.73(b)**

Novogen Research Pty Ltd., a corporation of Australia, whose post office address is 140 Wick Road, North Ryde, New South Wales, 2113, Australia, is the assignee of the entire right, title, and interest of U.S. Patent No. 5,830,887 by virtue of an Assignment submitted on April 13, 1998 (copy attached), together with a petition for entry of late assignment papers, as well as the Decision by the Office of August 17, 1998, which granted the petition (copy attached).

Novogen Research Pty Ltd. hereby consents to the filing of the present application for reissue of U.S. Patent No. 5,830,887.

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